

21 APR 2006

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In re Application of
ELLIOTT
Application No.: 10/525,743
PCT No.: PCT/US03/26988
Int. Filing Date: 26 August 2003
Priority Date: 30 August 2002
Attorney Docket No.: 059314-0701
For: IMMUNE RESPONSE ASSOCIATED
PROTEINS

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Renewed Petition under 37 CFR 1.497(d)", filed on 26 March 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to delete all inventors except Vicki S. Elliott as inventors in the above referenced application.

BACKGROUND

On 27 September 2005, applicant filed a petition under 37 CFR 1.497(d) for correction of inventorship, to delete all inventors except Vicki S. Elliott. In addition to the \$130 petition fee, Petitioner provided the statements of inventors Thomas W. Richardson, Anita Swarnakar, Joseph P. Marquis, Shanya D. Becha, Soo Yeun Lee, Narinder K. Chawla, Jayalaxmi Ramkumar, April J.A. Hafalia, and Reena Khare in support of the correction of inventorship under 37 CFR 1.497(d). A declaration executed by sole inventor Vicki S. Elliott was also provided.

On 23 January 2006, a decision dismissing the petition was mailed to applicant indicating that Ms. Lindquist remained an inventor for the above referenced application and therefore, a declaration or oath, in compliance with 37 CFR 1.497(a) and (b) was required to fulfill the requirements of 35 U.S.C. 371(c). In the alternative, a renewed petition was necessary, providing either the Form IB/306 noting the removal of Ms. Lindquist as an inventor or a statement of Ms. Lindquist requesting her deletion as an inventor.

On 23 March 2006, applicant filed a renewed petition along with a statement from Erika Lindquist regarding inventorship.

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added or deleted as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(I); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s).

Applicant has now satisfied Items (1) and (2). Item (3) is not applicable. The renewed petition was accompanied by a statement from Erika A. Lindquist requesting deletion of her inventorship.

Accordingly, applicant has now met all of the requirements to remove Thomas W. Richardson, Anita Swarnakar, Joseph P. Marquis, Shanya D. Becha, Soo Yeun Lee, Narinder K. Chawla, Jayalaxmi Ramkumar, April J.A. Hafalia, Reena Khare and Erika A. Lindquist as co-inventors in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to all inventors except Vicki S. Elliott is **GRANTED**.

The declaration, on 27 September 2005, is acceptable and in compliance with 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **27 September 2005**.



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